

ESTTA Tracking number: **ESTTA525437**Filing date: **03/07/2013**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Sensio Inc.		
Entity	Corporation	Citizenship	Canada
Address	1175 Place du Frère André Montréal, Que H3B 3X9 CANADA		

Attorney information	Julie A. Katz Symbus Law Group, LLC 1711 N. Hermitage Ave. Chicago, IL 60622 UNITED STATES jkatz@symbus.com Phone:312-857-3101
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Registration Subject to Cancellation

Registration No	3973724	Registration date	06/07/2011
Registrant	Anna's Linens, Inc. 3550 Hyland Ave. Costa Mesa, CA 92626 UNITED STATES		

Goods/Services Subject to Cancellation

Class 008. First Use: 2010/03/00 First Use In Commerce: 2010/03/00 All goods and services in the class are cancelled, namely: Flatware, namely, forks, knives, and spoons
Class 021. First Use: 2009/10/00 First Use In Commerce: 2009/10/00 All goods and services in the class are cancelled, namely: Dinnerware, namely, dinner plates, salad plates, bowls, and mugs; and drinking vessels, namely, beverage glassware, plastic beverage ware, glass beverage pitchers, and plastic beverage pitchers

Grounds for Cancellation

<i>Torres v. Cantine Torresella S.r.l. Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Abandonment	Trademark Act section 14

Attachments	Petition to Cancel B-BELLA AL Regn.pdf (5 pages)(93835 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/jak/
Name	Julie A. Katz
Date	03/07/2013

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Trademark Registration)	Cancellation No. _____
by Anna's Linens, Inc., Registration No. 3,973,724)	
Registered on June 7, 2011;)	
<u>for the Mark "B-BELLA STYLIZED"</u>)	
Sensio Inc.)	
)	
v.)	
)	
Anna's Linens, Inc.)	
)	
Respondent.)	

BOX TTAB/FEE
Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

PETITION FOR CANCELLATION

Petitioner, Sensio Inc., is a Canadian corporation, having an office at 1175 Place du Frère André, Montréal, Québec, H3B 3X9. Petitioner believes that it will be damaged by Respondent's registration of the mark B-BELLA STYLIZED, shown in U.S. Registration No. 3,973,724, and petitions for cancellation of the same on the following grounds:

1. Petitioner filed Application Serial No. 85/341,334 on June 8, 2011, to register the trademark BELLA, in Classes 7, 8, 11, 16, and 21.
2. Petitioner's Trademark Application Serial No. 85/341,334 was divided leaving the goods identified in Classes 8 and 21 ("Petitioner's BELLA Application").
3. Petitioner's BELLA Application covers the following goods: Tabletop items, namely, cutlery in the nature of knives, forks, spoons and serving pieces, namely, serving knives, serving forks and serving spoons in Class 8; and, cookware, namely, cooking and serving turners, spatulas, vegetable mashers, flour sifters, graters for household purposes, non-electric fruit and vegetable presses, non-electric juicers, whisks, scoops, separators for separating fat from gravy, bowls,

colanders, cutting boards, rolling pins, cookie cutters, baking molds, barbecue tools, namely, forks, tongs and turners, barware, namely, cocktail shakers and strainers, shot glasses, bottle/can openers, cork removers, and ice buckets, non-electric blenders, non-electric griddles, non-electric coffee makers; bakeware; plastic storage, namely, plastic storage containers for household or domestic use; beverage glassware; tabletop items, namely plates and dishes; hydration devices, namely, double wall cups and plastic, stainless steel and aluminum water bottles sold empty; tabletop items, namely cutlery in the nature of serving spoons, serving forks and serving knives in Class 21.

4. Respondent's Registration No. 3,973,724 is cited against registration of Petitioner's BELLA Application.

5. The trademark examining attorney assigned to Petitioner's BELLA Application has issued a final refusal to register the BELLA Application under Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d), on the grounds that the BELLA mark so resembles the B-BELLA STYLIZED mark, as to be likely, when used in connection with the identified services, to cause confusion, or to cause mistake, or to deceive.

6. The B-BELLA STYLIZED registration at issue covers "flatware, namely, forks, knives, and spoons" in Class 8 and "dinnerware, namely, dinner plates, salad plates, bowls, and mugs; and drinking vessels, namely, beverage glassware, plastic beverage ware, glass beverage pitchers, and plastic beverage pitchers" in Class 21.

7. Respondent's Registration No. 3,973,724 claims first use in commerce of March 2010 for all of the goods identified in Class 8 and first use in commerce of October 2009 for all of the goods identified in Class 21.

8. Upon information and belief, Respondent does not use the mark covered by Registration No. 3,973,724 on all of the goods covered in said registration.

9. Upon information and belief, Respondent never used the mark covered by Registration No. 3,973,724 on all of the goods covered in said registration.
10. Petitioner believes that the Respondent was deceitful and fraudulent in the procurement of the application that resulted in the registration of the B-BELLA STYLIZED mark.
11. When Respondent filed the application for the B-BELLA mark it signed a declaration which states that “all statements made of his knowledge are true; and that all statement made on information and belief are believed to be true.” (“Respondent’s Declaration”)
12. Respondent’s Declaration covers the statements within the application that resulted in Registration No. 3,973,724 that Respondent had used the mark in commerce with all goods for which the applicant seeks registration.
13. Respondent knew or should have known that there wasn’t actual use of each product in Classes 8 and 21 at that time. By filing a false declaration, Respondent committed fraud on the U.S. Patent and Trademark Office.
14. Respondent knew or should have known that when use of the mark ceased for any of the goods, that those goods should have been removed from the registration. By refraining from doing so, Respondent committed fraud on the U.S. Patent and Trademark Office.
15. Respondent cannot and will not be able to declare that it has had substantially exclusive and continuous use of the B-BELLA STYLIZED mark.
16. Petitioner is being damaged by continued registration of the B-BELLA STYLIZED mark because said registration is preventing Petitioner from registering its own mark, BELLA in Classes 8 and 21.

Wherefore, Petitioner requests that Respondent's registration, Registration No. 3,973,724 be cancelled; that registration not be continued for the mark; and that this petition for cancellation be sustained in favor of Petitioner.

Respectfully submitted,

SENSIO INC.

Dated: March 7, 2013

By: /s Julie A. Katz/
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on March 7, 2013 a copy of the foregoing **Petition for Cancellation** was served via first class mail, postage prepaid, on the following:

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